

<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	14 July 2021
<b>Report Title</b>	Land at Colegates Close, Oare – Community Asset Transfer
<b>Cabinet Member</b>	Cllr Monique Bonney, Cabinet Member for Economy and Property
<b>SMT Lead</b>	Nick Vickers – Chief Financial Officer
<b>Head of Service</b>	Nick Vickers – Chief Financial Officer
<b>Lead Officer</b>	Kent Parker – Estates Surveyor
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>That Cabinet agrees to enter into a new 125-year lease of the property with Oare Parish Council on the terms set out in this report.</li> <li>That the Head of Property Services in consultation with the Cabinet Member for Economy and Property be authorised to finalise the terms and the Head of Legal Services be authorised to negotiate and complete the necessary legal formalities and all necessary deeds and agreements arising from or ancillary to the grant of the lease of the property.</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 This report sets out the proposals for a new 125-year lease of land at Colegates Close, Oare (shown on the site plan – Appendix 1) to Oare Parish Council on the terms set out in this report. The lease will be granted in accordance with the provisions set out in the Community Asset Transfer Policy.

## 2 Background

- 2.1 The land has been a long-term vacant plot which was retained following the housing transfer to Swale Housing Association in 1990 as it was thought to have some longer term development potential. Various reviews have concluded that due to its inadequate access through the adjacent garages it is not suitable for development in its own right.
- 2.2 Following a Landholdings Review undertaken in 2016/17 this site was proposed to be transferred to Optivo who own the adjacent garage site which provides the only access. The transfer to Optivo was subject to them obtaining planning permission for a development of both sites. It was also subject to them acquiring some of the privately owned garages and building replacements as part of the scheme. This transfer was agreed by Cabinet at its meeting on 4 October 2017 (Minute No. 261). The Council had

also agreed to provide a commuted sum towards the costs of delivering affordable housing. This was agreed by Cabinet at its meeting on 11 July 2018 (Minute No. 109). Optivo's feasibility study, however, raised concerns over viability and the constraints on the site. Having considered the various issues and risks affecting the site they concluded that any increase in costs would make the scheme unviable and withdrew from the proposed purchase in March 2020. It was therefore not possible to proceed with the land transfer and the payment of the commuted sum was not made.

### **3 Proposals**

- 3.1 The Parish Council have expressed an interest in taking a transfer of the plot for a community orchard. Subsequently an EOI process was carried out which did not result in any other interested parties coming forward with proposals for an alternative community use. It is therefore proposed to proceed with a Community Asset Transfer to the Parish Council on the basis of a 125-year leasehold interest subject to Cabinet approval. The proposed terms would include an option for the Council to terminate the lease should circumstances change and it became possible to develop the site for housing in future.
- 3.2 The proposal will help contribute to the Council's Climate and Ecological Emergency action plan commitment, making use of Council owned land to support carbon capture and promote wildlife and biodiversity.
- 3.3 Under the provisions of Section 123 of the Local Government Act 1972, the Council is required to achieve the best consideration that can be reasonably obtained in the circumstances when offering such a lease unless Secretary of State consent is specifically granted for a disposal at "under value". Where an agreement is proposed that would result in the Council not achieving best consideration and the 'under value' does not exceed £2 million, the Local Government Act 1972: General Disposal Consent 2003 (Circular 6/03) removes the requirement for a specific consent to be obtained in circumstances where the transaction will help it to secure the promotion or improvement of the economic, social or environmental wellbeing of its area.
- 3.4 The current asset valuation for the land is £21,000 based on its amenity land value. Therefore, the undervalue resulting from the proposed transaction is estimated at £21,000. The Council would retain any future development value through an option to terminate should it become possible to develop the site in the future. It should be noted, however, that it may be less likely to obtain planning permission for development in the future if the proposed community orchard still exists and is providing a community use.

### **4 Alternative Options**

- 4.1 The site could be sold on the open market, either at auction or by private treaty. This is not considered appropriate as the site is not considered suitable for development in its own right. It is therefore considered important to retain the asset for the benefit of the local community.
- 4.2 The Council could continue to retain the site as vacant land in the hope that in the future the housing association want to develop their garage site but given that this is not

considered viable it appears very unlikely that a development could happen in the foreseeable future.

## 5 Consultation Undertaken or Proposed

- 5.1 Local ward members have been consulted and support this proposal.

## 6 Implications

Issue	Implications
Corporate Plan	The lease of the site to the Parish Council is being proposed in accordance with the Community Asset Transfer Policy and supports the Investing in our environment priority in the Corporate Plan.
Financial, Resource and Property	There will minimal financial implications as the land is vacant. The proposal will, however, end the need for periodic maintenance.
Legal, Statutory and Procurement	The Council has the power under Section 123 of the Local Government Act 1972 (the Act) to grant the lease referred to in this report and will meet its obligations under Section 123 of the Act as to best consideration as the estimated undervalue is below £2 million and the lease will contribute to the social, economic and environmental wellbeing of the Borough. An EOI process was carried out which did not result in any other interested parties coming forward with proposals for an alternative community use
Crime and Disorder	None anticipated at this stage.
Environment and Climate/Ecological Emergency	The proposal will help contribute to the Council's Climate and Ecological Emergency action plan commitment, making use of Council owned land to support carbon capture and promote wildlife and biodiversity
Health and Wellbeing	The proposal will provide a green space accessible for community use.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage
Risk Management and Health and Safety	None anticipated at this stage.
Equality and Diversity	None identified at this stage

Privacy and Data Protection	None identified at this stage
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## **7 Appendices**

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Site Plan

## **8 Background Papers**

None